

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND  
COMPOUNDING PHARMACY, INC.  
PRODUCT LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:

*Mattila v. New England Compounding  
Pharmacy, Inc.*  
Case No. 1:13-cv-10430

MDL No. 13-2419-RWZ-JCB

**UNOPPOSED MOTION TO RESET HEARING  
ON PLAINTIFF MILDA MATTILA’S MOTION FOR EQUITABLE AND/OR  
DECLARATORY RELIEF REGARDING OUTSTANDING MEDICARE LIEN**

The United States, on behalf of the U.S. Department of Health and Human Services (“HHS”) and its Centers for Medicare & Medicaid Services (“CMS”), respectfully moves this Court to reset the hearing on Plaintiff Milda Mattila’s Motion for Equitable and/or Declaratory Relief Regarding Outstanding Medicare Lien, ECF No. 3566 (hereinafter “Motion”). The Motion currently is set for hearing on March 2, 2022, at 2:00 p.m. ECF No. 3570. For the reasons that follow, the United States requests that the hearing be continued for 30 days, to April 1, 2022, or such later date as the Court deems appropriate, to allow the United States time to consider filing a statement of interest under the authority provided to the Attorney General by 28 U.S.C. § 517 to aid the Court in resolving the Motion. This is the United States' first request to continue this hearing date, and the request is supported by good cause, as described further below.

Through a “prayer and request for equitable and/or declaratory relief,” the Motion asks the Court to divest CMS of much of its statutorily-mandated claim for reimbursement of Plaintiff’s NECC-related healthcare costs from Plaintiff’s NECC tort settlement. Mot. ¶¶ 1–2,

10–11, 13, 17. While the Motion directly affects CMS’s interests, none of CMS, HHS, or HHS Secretary Xavier Becerra (or his predecessors) was a party to this lawsuit, which was closed more than three years ago. And Plaintiff did not consult CMS or otherwise inform it of the Motion. *See generally* Mot. (failing to certify compliance with L.R. 7.1(a)(2)). CMS is now aware of the Motion and its potential impact on CMS. Given its interests in the Motion, the United States is considering filing a statement of interest under 28 U.S.C. § 517, which permits the Attorney General to attend to the interests of the United States in any case pending in a federal court.

By order dated February 8, 2022, the Court set Plaintiff’s Motion for hearing, *see* ECF No. 3567, which is currently scheduled for March 2, 2022, *see* ECF No. 3570. The United States respectfully requests that the hearing be continued to afford the United States sufficient time to assess its interests in the Motion and, if necessary, obtain required authority to file a statement of interest prior to the hearing.

For these reasons, the United States respectfully requests that the hearing on the Motion be reset to April 1, 2022, or such later date as the Court deems appropriate. Counsel for the United States has conferred with Plaintiff Mattila’s counsel, who does not object to the requested continuance. A proposed order granting the continuance is attached hereto.

Dated: February 23, 2022

Respectfully submitted,

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

/s/ Bethany Theriot

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document will be served through the ECF system upon each attorney of record who is a registered participant as identified on the Notice of Electronic Filing (NEF).

Dated: February 23, 2022

By: /s/ Bethany Theriot  
BETHANY THERIOT